

Remarks

The Office Action of June 30, 2004 has been carefully considered. Claims 1-10 remain in this application for consideration on their merits.

In the Office Action of June 30, 2004, claims 1-10 were rejected under 35 USC §103(a) as being unpatentable over Muchin '929, in view of Cronk et al. '265. The Primary Examiner's position with respect to claim 1 is repeated as follows:

As to claim 1, Muchin discloses a method (figs. 6, 6a) of manufacturing a nasal dilator, comprising: (a) providing a flexible substrate material (47) and a resilient (44) member (b) joining said flexible substrate material to said resilient member to form an integral web; (c) applying a pressure sensitive adhesive layer (48) to a first surface of said integral web which is intended to face an external nasal wall tissue of a wearer; and (d) cutting (54) said integral web to form a final periphery of a nasal dilator suitable for adhesive attachment to an external nasal wall tissue of a wearer, so as to deliver said aromatic substance through inhalation by said wearer while providing a gentle expanding force to said external nasal wall tissue.

The difference between Muchin and claim 1 is the step of coating a second surface of said integral web opposing said first surface with a layer which includes a plurality of microcapsules containing an aromatic substance.

Cronk et al., in a nasal dilator, teach coating a second surface of said integral web opposing said first surface with a layer which includes a plurality of microcapsules (col. 12, lines 44-56+) containing an aromatic substance for the purpose of providing a controlled or extended release of the medicament to the wearer during use.

It would have been obvious to modify the method of manufacturing a nasal dilator of Muchin to include the step of coating a second surface of said integral web opposing said first surface with a layer which includes a plurality of microcapsules

containing an aromatic substance because it would have provided a controlled or extended release of the medicament to the wearer during use as taught by Cronk et al.

Applicants respectfully request reconsideration of this application in view of the fact that Cronk et al. '265 is the grandparent of the current application. Applicants attach the transmittal letter filed with the instant application (attachment A) which claims benefit of prior U.S. applications under 37 CFR §1.78 and states that the present application "is a continuation of co-pending U.S. Application Serial No. 10/85,318 filed May 17, 2003, which is a continuation of co-pending U.S. Application Serial No. 09/099,825, filed June 18, 1998", which has now matured into Cronk et al. U.S. Pat. No. 6,244,265 (the Cronk et al. '265 reference). Unfortunately, due to a typographical error, the parent of this application was misidentified as U.S. Application Serial No. 10/85,318, instead of the correct Application Serial No., 10/859,318. The correct Serial No. is properly reflected in Applicants' specification, page 1, paragraph 1 in the section entitled "Related Application Data". Applicants hereby attach a replacement page for page 2 of the Patent Application Transmittal Letter (attachment B), which now accurately identifies the correct parent application Serial No. In a telephonic conference between the undersigned and Primary Examiner Lewis, held on September 8, 2004, the above-described error was explained. Applicants apologize for any inconvenience this error may have caused.

Having claimed the benefit of the filing date of the Cronk et al. '265 application in Applicants' specification, the patent which resulted from Applicants' grandparent application can not be prior art to the present application. Accordingly, reconsideration of rejection of claims 1-10 under §103(a) is respectfully requested.

On page 4 of the Office Action, the Primary Examiner indicated that:

The invention disclosure statement filed on November 4, 2003, failed to comply with 37 CFR §1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, the U.S. patent documents have been considered but the foreign patent documents and publications referred to therein have not been considered.

While Applicants believe they have complied with 37 CFR §1.98(d)(1) and (d)(2), which relieves Applicants from the burden of resubmitting copies of publications if already cited in an earlier application which has been properly identified, as a courtesy to the Primary Examiner, and in view of Applicants' own mistake in identifying the correct Serial No. of their parent application in their transmittal papers, Applicants submit a new Information Disclosure Statement along with copies of all foreign patent documents or other publications which were not previously forwarded (attachment C). Applicants can not locate a copy of the document "Kleenex® Cold Care™ with menthol box (copyright notice 1986 and 1996)" and believe it may be found in the file of Applicants' parent Application Serial No. 10/859,319, its grandparent Serial No. 09/099,825, great grandparent Serial No. 08/942,797 or great great grandparent Serial No. 08/791,760. In the event the Kleenex box document can not be found, Applicants submit the web documents found at www.Kleenex.com/us/products/soft/ and www.Kleenex.com/us/history/timeline/index.asp, which reflects that the Kleenex cold menthol product was introduced in 1996.

U.S. Patent Application Ser. No. 10/676,520
Amendment Filed in Response to
Office Action Dated 06/30/2004

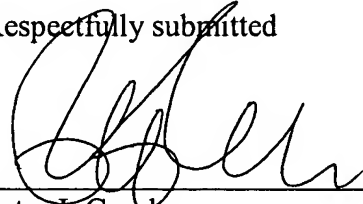
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Reconsideration of Applicants' Information Disclosure Statement is therefore
respectfully requested.

In view of the above, reconsideration of the present application is respectfully requested
and an early Notice of Allowance is earnestly solicited.

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Respectfully submitted



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